



Office of the Attorney General
State of Texas

July 16, 1993

DAN MORALES
ATTORNEY GENERAL

Mr. Michael H. Beeman
Records Management Officer
Ysleta Independent School District
9600 Sims Drive
El Paso, Texas 79925-7225

OR93-463

Dear Mr. Beeman:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 20489.

The Ysleta Independent School District (the "school district") has received two requests for complaint letters concerning the behavior of two of the physical education coaches at the Mea Vista Elementary School. Specifically, the requestors seek "copies of all the student letters as well as the two letters from the teachers" with regard to the coaches. The school district contends the requested information is excepted from public disclosure under sections 3(a)(14) and 14(e) of the Open Records Act.¹

Section 3(a)(14) excepts "student records at educational institutions funded wholly, or in part, by state revenue." Section 14(e) incorporates another source of law, specifically, the federal Family Educational Rights and Privacy Act of 1974 ("FERPA"), into the Open Records Act, providing:

Nothing in this Act shall be construed to require the release of information contained in education records of any educational agency or institution except in conformity with the provisions of the Family Educational Rights and Privacy Act of 1974, as enacted by Section 513 of Public Law 93-380, codified as Title 20 U.S.C.A. Section 1232g, as amended.

¹We note that the school district does not object to the release of the two letters from the teachers. In a memorandum addressed to the requestors, you state that the teachers' letters will be released to the requestor "in the immediate future." Accordingly, the scope of this decision only covers the handwritten student letters submitted for our review.

V.T.C.S. art. 6252-17a, § 14(e); *see also* Open Records Decision No. 431 (1985). FERPA provides the following:

(1) No funds shall be made available under any applicable program to any educational agency or institution which has a policy or practice of permitting the release of educational records (or personally identifiable information contained therein other than directory information, as defined in paragraph (5) of subsection (a) . . .) of students without the written consent of their parents to any individual, agency, or organization, other than to the following--

(A) other school officials, including teachers within the educational institution or local educational agency, who have been determined by such agency or institution to have *legitimate educational interests*.

20 U.S.C. § 1232g(b) (emphasis added). "Education records" are records which:

- (i) contain information directly related to a student; and
- (ii) are maintained by an educational agency or institution or by a person acting for such agency or institution.

Id. § 1232g(a)(4)(A). Although the records are requested by "teachers within the educational institution," we do not believe that the requested information is being sought for "legitimate educational interests." Accordingly, the requestors do not have a special right of access to the requested information because they teach at the educational institution where the records are maintained.

Sections 3(a)(14) and 14(e) may not be used to withhold entire documents; the school district must delete information only to the extent "reasonable and necessary to avoid personally identifying a particular student" or "one or both parents of such a student." Open Records Decision No. 332 (1982) at 3. However, in Open Records Decision No. 224 (1979), this office held that "release of [a] student's handwritten comments, even though they are not signed, would make the identity of the student easily traceable through the handwriting, style of expression, or the particular incidents related in the comments." We have reviewed the student letters submitted to this office and find that, although there are 32 letters, deleting the students' names would not be sufficient to protect the students' identities. Therefore, the school district must withhold the requested information in its entirety unless the school district receives written authorization from each student's parents as required by FERPA.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact this office.

Yours very truly,



Loretta R. DeHay
Assistant Attorney General
Open Government Section

LRD/LBC/jmn

Ref.: ID# 20489
ID# 20663

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